IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

LEWIS E. KNAPPER AND LINDA KNAPPER,	)
Plaintiffs,	)
vs.	)
SAFETY KLEEN SYSTEMS, INC., ET AL.	)
Defendants.	)

DEPOSITION OF JOHN SPENCER, C.I.H., C.S.P.

REPORTED BY:

LAURA L. VAN SANDT, Court Reporter and Notary Public

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(EXHIBIT NUMBER 5 WAS MARKED FOR IDENTIFICATION)

Q We'll get a copy during a break and then we'll tag it later but Exhibit Number 5 is going to be RSC23 and that's the raffinate formula; correct?

A Yes.

Q Okay. And RSC25 is going to be Exhibit 6 and this is the Liquid Wrench formula that has raffinate in it; right?

A Yes.

(EXHIBIT NUMBER 6 WAS MARKED FOR IDENTIFICATION)

Q And these are the two formulas you used for purposes of your -- are they studies that you did in September of 2002 and then July 2009?

A This is what we used for purposes of the 2009 study.

Q Did you use that one for purposes of the 2002 study as an original --

A No. Remember what I said?

Q I understand you --

A I said that I used an existing raffinate -- or I'm sorry -- an existing Liquid Wrench formulation and we added benzene to it.

Q I understand but did you use the original to understand what to compare it to in the 2002 --

A We looked at that but there were differences in the formulation.

Q But the formulation you were comparing the -- what you added benzene to in 2002 was what we see in Exhibit 6; right?

MR. GRAY: Object to form.

THE WITNESS: There were some chemical differences.

BY MR. LONGORIA:

Q I understand that but the one you were comparing it to was the original raffinate Liquid Wrench; right, which is Exhibit 6?

A No. We were using a product that existed in 2002 and just simply added benzene to it.

Q I understand that point but you did that to try and mimic the formula that's in Exhibit 6; yes?

A No.

Q No? Not at all?

A No.

Q Okay. So you didn't even consider for purposes of your 2002 study the original formula of Liquid Wrench which had raffinate?

A No. I'm not saying we didn't consider it and I'm sorry, we probably did look at this but we did not use this as our guidance document. We used an

BY MR. LONGORIA:

Q I don't know. I'm asking you. I'm not saying that. I'm asking you. Is --

A I'm not the physical chemist here that, you know --

Q Okay.

A -- so I don't know that. Obviously benzene's not the magic ingredient 'cause the product continued to work even after they took it out.

Q Here's what -- okay. Objection, nonresponsive after I don't know. When we look at -- so when we look at these numbers for this assessment in terms of the air sampling I've got, I think it's exhibit -- Appendix A; right?

A Yes.

Q Okay. We're not sampling the same amount of use of Liquid Wrench that's spiked 1 percent, 7 percent, or 30 percent; are we?

A I'm sorry, you mean the same volume of Liquid Wrench?

Q Quantity of Liquid Wrench.

A That's correct.

Q What would if we look at table --

A Now, you are sampling more benzene.

Q Oh, I understand that.

A I'm not making an assumption. I'm going based on my experience in the field. I'm going based on the testimony of people like Mr. Coleman who defined the amount of product that he used over -- a can over several months or I don't know he maybe even said years. So understanding how the product is used I think is important and, yes, it is not -- it is my opinion and my experience and also the result of the testimony that allows me to speak to the, how it is applied.

Q Okay. And the way it's applied is it's not squirted. It's sort of dropped on there --

A Sure.

Q -- correct?

A Sure. It's in drops, yes.

Q And that's what you're going to represent to the jury as to how Liquid Wrench is applied through drops, not squirted; right?

A I think -- yes. Through the testimony provided in this case I would represent how this product is used.

Q And some of the other testimony in other cases too; right?

A Perhaps.

Q You've referenced --

A This report was related to Mr. Knapper and he did not use pure benzene.

Q So the Day 1 stuff is pure benzene. You didn't include it but it's somewhere within your backup data?

A Correct.

Q Did you compare your results of pure benzene with what was out there in the published literature and do a comparison to see whether they matched or not?

A There wasn't anything out there.

Q So you didn't find any sort of studies, or experiments or papers that talk about somebody doing a determination of the evaporation rate for pure benzene; is that true?

A That is true. The closest that there is out there was a recent paper by HUI, H-U-I et al. That came out very recently that looked at benzene added to skin tissue and then I think an in-vitro assessment without any -- I'm sorry -- in-vivo assessment without tissue, and they looked at varying evaporation rates of benzene from that.

Q Okay. So within there they obviously without the skin stuff would have been sort of an evaluation of the evaporation rate of benzene, pure

A Sure. We had air coming in at one end --

Q Of a box?

A Of ducting and with a work area that was enclosed with -- as a glove box and then ducting that extended down from that. We created a laminar flow through the box and across the surface area that was being -- where Liquid Wrench product was added.

And then down stream of where the Liquid Wrench was added we inserted a direct reading equipment to detect the benzene as it was being released.

Q That's that ChemSense 600?

A Correct. And then we also collected air samples at that same sampling point using the Summa canisters to -- as a validation checks of the ChemSense 600.

Q Okay. And I'm looking at here and is it something -- it's called GB -- GBTEC; right?

A Yes.

Q OKay. Is that something -- well, let me back up a second. I'm trying to understand. Okay, glove box type evaporation chamber; right?

A Yes.

Q Okay. And is there some type of authority that says that that's a proper way to do an

assessment?

A You mean with this GBTEC?

Q Yeah.

A No. This was something that we had designed.

Q When you say we, you mean your company?

A Yes.

Q Who invented the design of it? Was it a group of people?

A Well, I was -- I guess you could say it's a group of people. I mean I was leading the charge in this area of setting up the experimental design.

Q Is there some type of, like I can go out in peer review literature or some books or, you know, things that talk about this -- what do we call this thing; the glove box type evaporation chamber that says that, you know, this is a good way to do assessments and, you know, validly scientific and all those good sort of bullet points?

A Well, yes and no.

Q Okay.

A There is no ASTM method or NIOSH method -- we looked -- that allows -- there is an ASTM method doing single chemical constituents but we were

A Not for mixed hydrocarbons like we did it.

Q Right. Just but other chemicals in general?

A Yes. For individual constituents. The ASTM method had a piece of equipment that you could do that for. Of course they don't make it anymore but no one makes it anymore but --

Q But they published literature and they say this is the evaporation rate of -- do you know the name of the chemical that they've done it on just off the top of your head?

A There's a list of chemicals. The other problem is a lot of them are relativistic evaporation rate. In other words, they use butyl acetate and then they compare everything to -- butyl acetate's one and then everything else is either below or above butyl acetate so --

Q So is the butyl acetate like a baseline?

A That's -- some people use that chemical for that purpose.

Q And I guess what I'm trying to say is did you all put like a known chemical where it has a known evaporation rate inside this GBTEC and figure out if your numbers match what the published